

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

MARCUS D. WRIGHT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:21-cv-00215-JPH-MG
	)	
T. J. WATSON Warden of USP Terre	)	
Haute,	)	
U.S. ATTORNEY GENERAL,	)	
U.S. PROSECUTOR OF SAN ANTONIO,	)	
TX,	)	
	)	
Defendants.	)	

**ORDER DENYING MOTION TO WAIVE REMAINING APPELLATE FEE**

Plaintiff Marcus D. Wright, a prisoner confined to the McCreary U.S. Penitentiary, filed this civil action alleging constitutional violations relating to being housed with his former co-defendant. Dkt. 6. Mr. Wright's complaint was ultimately dismissed based on his failure to pay the filing fee. Dkt. 15.

Mr. Wright filed a notice of appeal and a motion for leave to proceed on appeal *in forma pauperis*. Dkts. 17, 21. The Court denied the motion, finding that Mr. Wright was ineligible to proceed *in forma pauperis* under 28 U.S.C. § 1915(g). Dkt. 23. The Court of Appeals dismissed the appeal when Mr. Wright did not pay the full filing fee, and it ordered this Court to issue a collection order to collect the \$505.00 fee. Dkt. 25 (Seventh Circuit Mandate); dkt. 26 (Collection Order).

Now, three years later, Mr. Wright has filed a motion to waive the rest of the appellate filing fee, dkt. [39], stating that he cannot pay the remaining

balance of \$150.00 still owed to the Court. Mr. Wright states that payment towards the appellate filing fee in this matter has prohibited him from being able to pay for filing fees in other districts. Dkt. 39 at 3.

Mr. Wright's motion to waive the remainder of the appellate filing fee, dkt [39], is **denied**. This Court does not have discretion to take the action Mr. Wright requests. This is because the filing fee is incurred at the time the notice of appeal is filed. *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997) (noting that the obligation to pay the filing fee "is incurred by filing a notice of appeal; it cannot be avoided by dismissing the appeal, or by failing to pay when the fees are due."). Accordingly, the Court cannot now waive the fee, even though Mr. Wright's appeal was dismissed for failure to pay the filing fee.

**SO ORDERED.**

Date: 12/11/2024

James Patrick Hanlon

James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

MARCUS D. WRIGHT  
24986-380  
MCCREARY - USP  
MCCREARY U.S. PENITENTIARY  
Inmate Mail/Parcels  
P.O. BOX 3000  
PINE KNOT, KY 42635